

Amendment and Response

Applicant: Daniel R. Tretter et al.

Serial No.: 10/672,544

Filed: September 26, 2003

Docket No.: 200312433-1

Title: GENERATING AND DISPLAYING SPATIALLY OFFSET SUB-FRAMES

REMARKS

The following remarks are made in response to the Non-Final Office Action mailed January 12, 2005. In that Office Action, the Examiner rejected claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over Tabata, U.S. Patent No. 6,384,816 ("Tabata").

With this Response, claims 12 and 19 have been amended. Claims 1-20 remain pending in the application and are presented for reconsideration and allowance.

Objection to Information Disclosure Statement

The Information Disclosure Statement (previously filed with the Application on September 26, 2003), was objected to as failing "to comply with 37 C.F.R. 1.98(a)(2), which requires legible a copy of each publication or that portion which caused it to be listed; and all other information or portion which caused it to be listed." A copy of the previously filed Information Disclosure Statement including legible copies of the publications have been attached to this Response.

35 U.S.C. §103 Rejections

The Examiner rejected claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over Tabata, U.S. Patent No. 6,384,816 ("Tabata"). Independent claim 1 includes the limitation "displaying the sub-frames for each image frame in a second set of the plurality of image frames at a second plurality of spatially offset positions that is different than the first plurality of spatially offset positions." The Examiner has acknowledged with respect to this claim that "Tabata fails to specifically disclose displaying the sub-frames for each image frame in a second set of the plurality of image frames at a second plurality of spatially offset positions that is different than the first plurality of spatially offset positions." (Office Action at para. no. 2, page 3). Independent claim 8 includes the limitation "an image processing unit configured to define . . . third and fourth sub-frames corresponding to the second image" and "a display device adapted to . . . alternately display the third sub-frame in a third position spatially offset from the first position and the second position, and the fourth sub-frame in a fourth position spatially offset from the first position, the second position, and the third position." The Examiner has acknowledged with respect to this claim that "Tabata fails to specifically disclose third and fourth sub-frames corresponding to the second image." (Office

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Action at para. no. 2, page 6). However, with respect to independent claims 1 and 8, the Examiner stated that:

Tabata teaches one frame is represented by dividing image signals into four images (col. 1, ll. 25-27); and a delta array display having multiple frames (FIG. 4) where each frame has pixel positions transitioned in either a vertical and/or horizontal distance from the first standard pixel position (col. 2, ll. 30-44).

It would have been obvious to one of skill in the art to incorporate sub-frames of consecutive image frames displayed at different pluralities of spatially offset positions with the disclosure of Tabata because by vertically and/or horizontally positioning each sub-frame pixel based on the standard position of the first sub-frame pixel relative to the image frame where each image frame occupies a different display position, the position of each transitioned sub-frame pixel will be spatially offset from the sub-frame pixels of consecutive image frames. (Office Action at para. no. 2, page 3; and para. no. 2, page 6).

One of the requirements of establishing a *prima facie* case of obviousness is that “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” MPEP § 2143. The Examiner has acknowledged that Tabata does not teach or suggest all of the limitations of claim 1 or claim 8. (Office Action at para. no. 2, page 3 and page 6). The Examiner has cited nothing in Tabata that teaches or suggests the above-quoted limitations of independent claims 1 and 8. There is also no teaching or suggestion in Tabata regarding the advantages provided by embodiments of the present invention, such as avoiding a loss in bit-depth typically associated with fixed two-position processing or fixed four-position processing. (See, e.g., specification at page 16, lines 11-15; and page 17, line 27 to page 18, line 7).

Since Tabata does not teach or suggest each and every limitation of claim 1 or claim 8, it is not clear if the Examiner is relying on Official Notice, or the concept of inherency, in the rejection of these claims. However, as indicated in the Manual of Patent Examining Procedure, “[o]fficial notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known.” MPEP § 2144.03(A). “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well known.” *Id.* (emphasis in

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original). The limitations in claims 1 and 8 that the Examiner appears to have acknowledged are not explicitly taught or suggested by Tabata are not well known facts that are capable of instant and unquestionable demonstration as being well known, and it would be inappropriate to simply rely on official notice in this case.

The above-quoted limitations of claims 1 and 8 are also not inherent in Tabata. As the Federal Circuit has stated, “[i]nherent anticipation requires that the missing descriptive material is ‘necessarily present,’ not merely probably or possibly present, in the prior art.” *Trintec Indus., v. Top-U.S.A. Corp.*, 63 USPQ2d 1597, 1599 (Fed. Cir. 2002) (quoting *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)). The above-quoted limitations of claims 1 and 8 are not “necessarily present” in the system disclosed in Tabata.

In view of the above, independent claims 1 and 8 are not taught or suggested by Tabata. In addition, dependent claims 2-7 and 9-11 which further limit patentably distinct claim 1 or claim 8, and are further distinguishable over the cited reference, are also believed to be allowable over the cited reference. Allowance of claims 1-11 is respectfully requested.

Independent claim 12, as amended herein, includes the limitations “means for receiving a set of consecutive high resolution images” and “means for automatically varying the set of spatially offset positions for at least one of the high resolution images”. Independent claim 19, as amended herein, includes the limitations “receiving a set of consecutive high resolution images” and “automatically varying the plurality of spatially offset positions for at least one of the high resolution images”. Tabata does not teach or suggest automatically varying spatially offset positions for at least one high resolution image in a set of consecutive high resolution images. For the reasons set forth above with respect to independent claims 1 and 8, Tabata also does not teach or suggest the limitations of independent claims 12 and 19 quoted above.

In view of the above, independent claims 12 and 19 are not taught or suggested by Tabata. In addition, dependent claims 13-18 and 20 which further limit patentably distinct claim 12 or claim 19, and are further distinguishable over the cited reference, are also believed to be allowable over the cited reference. Allowance of claims 12-20 is respectfully requested.

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CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-20 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-20 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 08-2025.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to either Susan E. Heminger at Telephone No. (650) 236-2738, Facsimile No. (650) 852-8063 or Jeff A. Holmen at Telephone No. (612) 573-0178, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

Daniel R. Tretter et al.

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CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 31st day of March, 2005.

By Jeff A. Holmen
Name: Jeff A. Holmen